

BP-A0148

JUNE 10

INMATE REQUEST TO STAFF CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) B. Cammer, Warden	DATE: 6/8/2020
FROM: James Lee Wheeler	REGISTER NO.: 01227017
WORK ASSIGNMENT: Incarceration Orderly G2/G3	UNIT: G-2

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

This is my application UNDER THE LAW signed March 26, 2020 by President Trump, "Coronavirus Aid, Relief and Economic Security Act" or The CARES ACT, for Compassionate Release, Home Confinement. Specifically, my application is premised upon "Extraordinary and Compelling Grounds" My age is 78, I have been diagnosed with Emphysema, with COVID-19 that would exacerbate to a deadly combination. COVID-19 being so rampant thru out the BOP it put me at a higher risk. U.S. Attorney General William Barr's March 27, 2020 memorandum called on the Bureau of Prison "to insure that we use the Home Confinement, where appropriate, to the Health and Safety of BOP Personnel and the People in their custody. Release Plan Attached - COVID-19 CARES ACT (Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate

Prescribed by P5511

PDF

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PRIVATE FOLDER

SECTION 6

Exhibit A, p. 1

Scanned with CamScanner

RELEASE PLAN (COVID 19 HC REQUEST)

NAME: James Lee Wheeler
REG NO: 01227017

RELEASE PLAN:

NAME / RELATIONSHIP OF PERSON YOU WILL BE RESIDING WITH:

I will reside with my sister, Judith King at 6395 S. 250 E,
Burlington, Indiana 46714,

ADDRESS:

PHONE NUMBER: 260 346 2159

EMPLOYER (NAME/ADDRESS), IF APPLICABLE: N/A

Do any of the individuals living at the residence have health concerns? No

Transportation plan – how will you get to home confinement: FAMILY will Pick ME UP

RETURN TO YOUR CASE MANAGER OR MS. FORTUNE

Inmate Name: Wheeler, James
Reg. No.: 01227-017
Unit: G02-016L

COVID-19 / DIRECT HOME DETENTION REVIEW

You were determined to be ineligible for direct home detention because you do not meet the following condition(s):

Program Statement 7320.01 CN-2, Home Confinement

- Has no public safety factors;
- Has confirmed employment (if employable);
- Has little or no need for the services of a CCC.

Operations Memorandum, Home Confinement under the First Step Act

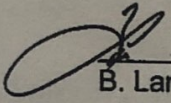
- Who is serving a term of imprisonment that is not life imprisonment based on conviction for an offense or offenses that do not include any crime of violence (as defined in section 16 of Title 18), sex offense (as defined in section 20911(5) of this title), offense described in section 2332b(g)(5)(B) of Title 18, or offense under chapter 37 of Title 18, and has served 2/3 of the term of imprisonment to which the offender was sentenced;
- Who has not been determined by the Bureau, on the basis of information the Bureau uses to make custody classifications, and in the sole discretion of the Bureau, to have a history of violence, or of engaging in conduct constituting a sex offense or other offense described in paragraph 2 above;
- With respect to whom the Bureau of Prisons has determined that release to home detention under this section will result in a substantial net reduction of costs to the Federal Government; and
- Who has been determined by the Bureau to be at no substantial risk of engaging in criminal conduct or of endangering any person or the public if released to home detention.

Attorney General Memorandum, Prioritization of Home Confinement As Appropriate in Response to COVID-19 Pandemic

- The security level of the facility currently holding the inmate, with priority given to inmates residing in low and minimum security facilities;
- Whether the inmate has a demonstrated and verifiable re-entry plan that will prevent recidivism and maximize public safety, including verification that the conditions under which the inmate would be confined upon release would present a lower risk of contracting COVID-19 than the inmate would face in his or her BOP facility;
- The inmate's crime of conviction, and assessment of the danger posed by the inmate to the community. Some offenses, such as sex offenses, will render an inmate ineligible for home detention. Other serious offenses should weigh more heavily against consideration for home detention.

The BOP is taking extraordinary measures to contain the spread of COVID-19 and treat any affected inmates. We recognize that you, like all of us, have legitimate concerns and fears about the spread and effects of the virus. However, your concern about being potentially exposed to, or possibly contracting, COVID-19 does not currently warrant an early release from your sentence. Accordingly, your request is denied at this time.

If you are not satisfied with this response to your request, you may commence an appeal of this decision via the administrative remedy process by submitting your concerns on the appropriate form (BP-9) within 20 days of the receipt of this response.


B. Lammer, Warden

6/16/20
Date

Name: Wheeler, J.Reg. No: (227-01)**Step 1 - Operations Memorandum, Home Confinement under the First Step Act Requirements & Program Statement 7320.01 CN-2, Home Confinement Requirements**

Has no public safety factors [If no circle Applicable PSF's] Disruptive Group / <u>Greatest Severity</u> Offense / Sex Offender / Threat to Government Officials / Deportable Alien / <u>Sentence Length</u> / Serious Escape / Prison Disturbance / Juvenile Violence / Serious Telephone Abuse	YES / <u>NO</u>
Had excellent institutional adjustment, (No Incident Reports in Past 12 Months)	<u>YES</u> / NO
Has a stable residence with a supportive family	<u>YES</u> / NO
Has confirmed employment (if employable)	YES / <u>NO</u>
Has little or no need for the services of a CCC	YES / <u>NO</u>
Who is not less than 60 years of age Age <u>77</u>	<u>YES</u> / NO
Who is serving a term of imprisonment that is not life imprisonment based on conviction for an offense or offenses that do not include any crime of violence (as defined in section 16 of Title 18), sex offense (as defined in section 20911(5) of this title), offense described in section 2332b(g)(5)(B) of Title 18, or offense under chapter 37 of Title 18, and has served 2/3 of the term of imprisonment to which the offender was sentenced; % of Time Served <u>LIFE</u>	YES / <u>NO</u>
Who has not been convicted in the past of any Federal or State crime of violence, sex offense, or other offense described in paragraph (2), above.	<u>YES</u> / NO
Who has not been determined by the Bureau, on the basis of information the Bureau uses to make custody classifications, and in the sole discretion of the Bureau, to have a history of violence, or of engaging in conduct constituting a sex offense or other offense described in paragraph 2 above;	YES / <u>NO</u>
Who has not escaped, or attempted to escape, from a Bureau of Prisons institution (to include all security levels of Bureau facilities);	<u>YES</u> / NO
With respect to whom the Bureau of Prisons has determined that release to home detention under this section will result in a substantial net reduction of costs to the Federal Government; and	YES / <u>NO</u>
Who has been determined by the Bureau to be at no substantial risk of engaging in criminal conduct or of endangering any person or the public if released to home detention.	YES / <u>NO</u>
Inmate Eligible for Direct Home Detention Under Step 1	YES / <u>NO</u>

Form Completed by: J. Turner

RETAIN IN CENTRAL FILE - SECTION 5

Step 2 - Attorney General Memorandum, Prioritization of Home Confinement As Appropriate in Response to COVID-19 Pandemic Requirements & Program Statement 7320.01 CN-2, Home Confinement Requirements

Has no public safety factors [If no circle Applicable PSF's] Disruptive Group / <u>Greatest Severity Offense</u> / Sex Offender / Threat to Government Officials / Deportable Alien / <u>Sentence Length</u> / Serious Escape / Prison Disturbance / Juvenile Violence / Serious Telephone Abuse	YES / <input checked="" type="radio"/> NO
Had excellent institutional adjustment, (No Incident Reports in Past 12 Months)	<input checked="" type="radio"/> YES / NO
Has a stable residence with a supportive family	<input checked="" type="radio"/> YES / NO
Has confirmed employment (if employable)	YES / <input checked="" type="radio"/> NO
Has little or no need for the services of a CCC	YES / <input checked="" type="radio"/> NO
The age and vulnerability of the inmate to COVID- 19, in accordance with the Centers for Disease Control and Prevention (CDC) guidelines 65 or Older or COVID-19 Has Risk Factors <u>77</u>	<input checked="" type="radio"/> YES / NO
The security level of the facility currently holding the inmate, with priority given to inmates residing in low and minimum security facilities. Security Level of Facility <u>Med</u>	YES / <input checked="" type="radio"/> NO
The inmate 's conduct in prison, with inmates who have engaged in violent or gang- related activity in prison or who have incurred a BOP violation within the last year not receiving priority treatment under this Memorandum	<input checked="" type="radio"/> YES / NO
The inmate' s score under PATTERN , with inmates who have anything above a minimum score not receiving priority treatment under this Memorandum PATTERN Score <u>minimum</u>	<input checked="" type="radio"/> YES / NO
Whether the inmate has a demonstrated and verifiable re-entry plan that will prevent recidivism and maximize public safety, including verification that the conditions under which the inmate would be confined upon release would present a lower risk of contracting COVID-19 than the inmate would face in his or her BOP facility	YES / <input checked="" type="radio"/> NO
The inmate's crime of conviction, and assessment of the danger posed by the inmate to the community. Some offenses, such as sex offenses, will render an inmate ineligible for home detention. Other serious offenses should weigh more heavily against consideration for home detention	YES / <input checked="" type="radio"/> NO
Before granting any inmate discretionary release, the BOP Medical Director, or someone he designates, will, based on CDC guidance, make an assessment of the inmate's risk factors for severe COVID-19 illness, risks of COVID-19 at the inmate's prison facility, as well as the risks of COVID-19 at the location in which the inmate seeks home confinement. We should not grant home confinement to inmate s when doing so is likely to increase their risk of contracting COVID-19. You should grant home confinement only when BOP has determined- based on the totality of the circumstances for each individual inmate- that transfer to home confinement is likely not to increase the inmate' s risk of contracting COVID-19. Release Area <u>TRD</u> Is Release Area Identified a Hot Zone by CDC YES / NO	<input checked="" type="radio"/> YES / NO
Inmate Eligible for Direct Home Detention Under Step 2	YES / <input checked="" type="radio"/> NO

RETAIN IN CENTRAL FILE - SECTION 5

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Wheeler James L. 01227017 G-2 FBI Tewks Harte
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

To Mr. J. Turner,

Please find attached 4 pages per our conversation concerning
 Step 1 - operations Memorandum, First Step Act Requirements
 and Step 2 - Attorney General Memorandum. Each of the 4
 pages was my rebuttal to Step-1 and Step 2.

6-22-2020
 DATE

James Lee Wheeler
 SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

FD-902 (4-0)

Step 1 - Operations Memorandum, Home Confinement under the First Step Act Requirements & Program Statement 7320.01 CN-2, Home Confinement Requirements

Has no public safety factors [If no circle Applicable PSF's]

YES / ☒ NO

Disruptive Group / Greatest Severity Offense / Sex Offender / Threat to Government Officials /
 Deportable Alien / Sentence Length / Serious Escape / Prison Disturbance / Juvenile Violence /
 Serious Telephone Abuse

I was convicted of a Drug Conspiracy, a non violent crime and by virtue of the First Step Act my sentence has been reduced down from a life sentence. I have served 17 years in Federal custody.

Has confirmed employment (if employable)

YES / ☒ NO

I am employable and willing to work but at 77 years old I am eligible for Social Security benefits. In any event employment is a moot issue since I will have Home Confinement with my sister on her farm.

Has little or no need for the services of a CCC

YES / ☒ NO

As a senior citizen I am eligible for Medicare, Medicaid and the Affordable Care Act I will have no need for CCC.

Who is serving a term of imprisonment that is not life imprisonment based on conviction for an offense or offenses that do not include any crime of violence (as defined in section 16 of Title 18), sex offense (as defined in section 20911(5) of this title), offense described in section 2332b(g)(5)(B) of Title 18, or offense under chapter 37 of Title 18, and has served 2/3 of the term of imprisonment to which the offender was sentenced;

% of Time Served LIFEYES / ☒ NO

Pursuant to the First Step Act my sentence will be reduced from a life sentence.

Who has not been determined by the Bureau, on the basis of information the Bureau uses to make custody classifications, and in the sole discretion of the Bureau, to have a history of violence, or of engaging in conduct constituting a sex offense or other offense described in paragraph 2 above;

YES / ☒ NO

I have been convicted of ~~no~~ crimes of violence nor have I been convicted of a sex offense.

(SEE PAGE 2)

STEP 1 PAGE 2

With respect to whom the Bureau of Prisons has determined that release to home detention under this section will result in a substantial net reduction of costs to the Federal Government; and

YES / ☒ NO

Aside from the obvious reduction in the cost of food, clothing and housing there will be a very substantial reduction in future medical and medicine costs to the BOP.

Who has been determined by the Bureau to be at no substantial risk of engaging in criminal conduct or of endangering any person or the public if released to home detention.

YES / ☒ NO

I am 77 years old and choose to live out the remainder of the rest of my life in peace in the quiet setting of my sister's farm. I have no desire to engage in any sort of criminal conduct. Nor do I have any inclination to commit a violent act toward any other person.

END OF STEP 1

Step 2 - Attorney General Memorandum, Prioritization of Home Confinement As Appropriate in Response to COVID-19 Pandemic Requirements & Program Statement 7320.01 CN-2, Home Confinement Requirements

Has no public safety factors [If no circle Applicable PSF's] Disruptive Group / Greatest Severity Offense / Sex Offender / Threat to Government Officials / Deportable Alien / Sentence Length / Serious Escape / Prison Disturbance / Juvenile Violence / Serious Telephone Abuse	YES / <input checked="" type="radio"/> NO
Has confirmed employment (if employable)	YES / <input checked="" type="radio"/> NO
Has little or no need for the services of a CCC	YES / <input checked="" type="radio"/> NO

The Above Issues Where address on Page 1 of 5

The security level of the facility currently holding the inmate, with priority given to inmates residing in low and minimum security facilities. Security Level of Facility <u>Med</u>	YES / <input checked="" type="radio"/> NO
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I am currently housed at a medium security level facility due only to the arbitrary policy of the BOP to put inmates with longer sentences to be in higher security facility than they deserve. I currently have lower custody points than most inmates housed in minimum security facilities.

Whether the inmate has a demonstrated and verifiable re-entry plan that will prevent recidivism and maximize public safety, including verification that the conditions under which the inmate would be confined upon release would present a lower risk of contracting COVID-19 than the inmate would face in his or her BOP facility	YES / <input checked="" type="radio"/> NO
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I have demonstrated that I will be serving Home Confinement at my sister's farm near Fort Wayne IN. This is a rural area and I will have very limited contact with other people.

The inmate's crime of conviction, and assessment of the danger posed by the inmate to the community. Some offenses, such as sex offenses, will render an inmate ineligible for home detention. Other serious offenses should weigh more heavily against consideration for home detention	YES / <input checked="" type="radio"/> NO
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My crime of conviction is Drug Conspiracy, a non-violent conviction. I have no convictions of sex offenses or other serious offenses

END of PAGE 1 STEP 2 - SEE PAGE 2

PAGE 2 - STEP 2

Before granting any inmate discretionary release, the BOP Medical Director, or someone he designates, will, based on CDC guidance, make an assessment of the inmate's risk factors for severe COVID-19 illness, risks of COVID-19 at the inmate's prison facility, as well as the risks of COVID-19 at the location in which the inmate seeks home confinement. We should not grant home confinement to inmates when doing so is likely to increase their risk of contracting COVID-19. You should grant home confinement only when BOP has determined- based on the totality of the circumstances for each individual inmate- that transfer to home confinement is likely not to increase the inmate's risk of contracting COVID-19.

☒ YES / NO

Release Area INDY

Is Release Area Identified a Hot Zone by CDC YES / NO

It should be noted that my sister's farm is near Bluffton IN in the Fort Wayne area.

Please see (Release Plan COVID 19 HC Request) Submitted With ORIGINAL Filing

End of Step 2

Remedy No.: 1029265-F1

FCC Terre Haute, IN

PART B - RESPONSE

This is in response to your Administrative Remedy receipted June 23, 2020, in which you allege you meet the criteria for home confinement during COVID-19 pandemic. For relief, you request to be released to home confinement.

A review of your request reveals you were determined to be ineligible for direct home detention because you do not meet the following condition(s):

Program Statement 7320.01 CN-2, Home Confinement

- Has no public safety factors.

Operations Memorandum, Home Confinement under the First Step Act

- Who is serving a term of imprisonment that is not life imprisonment based on conviction for an offense or offenses that do not include any crime of violence (as defined in section 16 of Title 18), sex offense (as defined in section 20911(5) of this title), offense described in section 2332b(g)(5)(B) of Title 18, or offense under chapter 37 of Title 18, and has served 2/3 of the term of imprisonment to which the offender was sentenced;
- Who has not been determined by the Bureau, on the basis of information the Bureau uses to make custody classifications, and in the sole discretion of the Bureau, to have a history of violence, or of engaging in conduct constituting a sex offense or other offense described in paragraph 2 above;
- Who has been determined by the Bureau to be at no substantial risk of engaging in criminal conduct or of endangering any person or the public if released to home detention.

Attorney General Memorandum, Prioritization of Home Confinement As Appropriate in Response to COVID-19 Pandemic

- The security level of the facility currently holding the inmate, with priority given to inmates residing in low and minimum security facilities;
- Whether the inmate has a demonstrated and verifiable re-entry plan that will prevent recidivism and maximize public safety, including verification that the conditions under which the inmate would be confined upon release would present a lower risk of contracting COVID-19 than the inmate would face in his or her BOP facility;
- The inmate's crime of conviction, and assessment of the danger posed by the inmate to the community. Some offenses, such as sex offenses, will render an inmate ineligible for home detention. Other serious offenses should weigh more heavily against consideration for home detention.

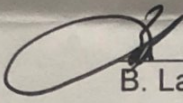
The BOP is taking extraordinary measures to contain the spread of COVID-19 and treat any affected inmates. We recognize that you, like all of us, have legitimate concerns and

fears about the spread and effects of the virus. However, your concern about being potentially exposed to, or possibly contracting, COVID-19 does not currently warrant an early release from your sentence.

Therefore, your Request for Administrative Remedy is denied.

If you are dissatisfied with this response, you may appeal to the Regional Director, North Central Regional Office, Federal Bureau of Prisons, 400 State Avenue, Suite 800, Kansas City, Kansas 66101. Your appeal must be received within 20 calendar days of the date of this response.

6/30/20
Date


B. Lammer, Warden